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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,828	11/01/2000	Masayuki Takahashi	1858-23	1068

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EXAMINER

SANDERS, KRIELLION ANTIONETTE

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/702,828

Applicant(s)

TAKAHASHI ET AL.

Examiner

Kriellion A. Sanders

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09298902.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP Patent No 56,062,835 or 449,685.

3. The rejection is repeated for reasons set forth in the preceding office action. The EP '835 patent discloses polyolefin compositions comprising a hindered amine photo-stabilizer and a hydroxy benzoic acid ester which corresponds to the compound of applicant's formula (I). The additive components are employed in amounts that directly correspond to the amounts of additives used in applicant's invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to formulate these compositions into any molded article including parts for automobile interiors absent a clear showing of unexpected results attributable to such an end use.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, -5, 9, 10, 11 and 12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over European Patent No. 449,685.

7. The EP '685 patent discloses polypropylene compositions comprising an inorganic filler component wherein said polypropylene/filler composition is stabilized by incorporating a hindered amine photo-stabilizer, an hydroxy benzoic acid ester which corresponds to the compound of applicant's formula (I) and a pentaerythritol diphosphite stabilizer which directly corresponds to the compound of applicant's formulas as set forth in claim 7. Patentee further indicates that pigments may be included in the compositions. Patentee indicates that the resulting compositions are useful as materials for parts, which are exposed to heat, including automobile parts. See page 7, lines 25-27 and lines 34-40. The additive components are employed in amounts that directly correspond to the amounts of additives used in applicant's invention.

8. No patentable difference is readily ascertained between patented and present inventions. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to select particular parameters from the patented disclosure such as weight ratios of components and specific species of components in the absence of a clear showing of unexpected results attributable to such parameters.

9. Applicant's arguments filed 2/23/04 have been fully considered but they are not persuasive. Applicant presents arguments and a 132 Declaration which avers that "a hindered amine photostabilizer having aN-CH3 type piperidyl group in its molecule is superior to a hindered amine photostabilizer haing a H-H type piperidyl group in its molecule in terms of

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improvements to weather resistance imparted to a block copolymer of polypropylene composition”.

10. This argument has not been found to be persuasive in that applicant's claims are not directed to the obtainment of improvements to weather resistance in block copolymers of polypropylene”. Applicant's claims are directed to compositions that are interior or exterior trim materials in automobiles that comprise a thermoplastic elastomer. This thermoplastic elastomer does not have to be a block copolymer of polypropylene. The claimed invention is not specific to improvements in weather resistance. Applicant's comparative experiments set forth in the Declaration are very specific. Applicant's claims however, are not so specific. Therefor, the comparative data is not commensurate in scope with the claimed invention. A showing of unexpected results would not be sufficient to overcome a rejection based upon anticipation.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 6:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2351.


Kriellion A. Sanders
Primary Examiner
Art Unit 1714

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March 1, 2004